

ADEPT
Legal Commentaries

Autumn 2001

Parliament's activity during fall session

November 2, 2001

I. Fighting terrorism

The fall session started on September 27. Given the September 11 events among the first on the agenda were acts related to fighting terrorism, i.e. Resolution on fighting terrorism; Law on Fighting Terrorism; Law on the Ratification of the International Convention on Air Travel Safety; Resolution on Establishing Anti-terror Department.

More recently, the Law on the Republic of Moldova Citizenship was amended, allowing the President of the country to withdraw the citizenship from persons who obtained it by fraud, or from persons who pose a threat to the country security. It is worth mentioning that before the amendment, the President was entitled to withdraw the citizenship based on the court resolution. Under the new amendments, the responsible state bodies in state security and public order to initiate the procedure may initiate the procedure of withdrawing the citizenship.

ADEPT Commentary: Despite the fact that the President had established a working group to elaborate amendments to the Constitution allowing double citizenship, the said amendments came as a surprise. On the one hand the President is entitled to withdraw the Moldovan citizenship from foreigners who recently received it, and on the other hand examines the possibility of allowing double citizenship, which would hardly increase the national security.

II. Justice

The most important laws related to the judiciary system recently passed by the Parliament are:

1. Law no.486-XV of 28.09.2001 on Modifying Article 16 of the Law on the Judiciary System. Under the amendment the Chair and Vice-chair of the courts, tribunals and Court of Appeal shall be appointed for a 4 year term by the President of the Republic of Moldova at the recommendation of the Supreme Magistracy Council.
2. The above mentioned law was followed by another one Law no.583-XV of 25.10.2001 on the Enforcement of the Article 16 of the Law on the Judiciary System, providing that Chairs and Vice-chairs of courts, tribunals and Court of Appeal appointed before the enforcement of the Law no.486-XV of 28.09.2001 "shall stay in office until their 4 year mandate (commencing on the date they were appointed) expires". In addition, Supreme Magistracy Council "shall select candidates for the position of Chair of the courts, where the 4 year mandate expires after the Law no. 486-XV of 28.09.2001 is enforced. Within 1 month the list of candidates shall be submitted for the approval of the President of the Republic of Moldova."
3. On July 19 2001, the Parliament adopted the Law no. 373-XV modifying and completing certain legal acts. The law was previously approved by the Parliament and submitted for the promulgation of the President. The President came back with some recommendations, which were approved by the Parliament. The modifications refer in particular to:
 - a. New provisions have been introduced to the Law on the Judiciary System regarding: the right of the Parliament and Supreme Magistracy Council to establish fields of judges' activity; the responsibilities of the court Chairs; reduced number of the Court of Appeal judges (from 30 to 25).
 - b. New provisions have been introduced to the Law on the Judge Status regarding: requirements to be met by candidate judges (minimum 30 years of age, 5 year experience in practicing law, qualification test, and income statement); Supreme Magistracy Council obligation to present solid arguments for nominating several times the same person to the judge position; possibility to oust a judge in case when his/her candidacy is not approved by the President of the Republic of Moldova or Parliament; possibility of transferring judges to another court or another position; suspension procedure (as established in the Electoral Code); new grounds for disciplinary measures (failure to examine cases in due course; disclosure of the secret of deliberation or confidentiality; violation of the law or lack of commitment);

- c. New provisions have been introduced in the Law on Supreme Magistracy Council regarding the rights of the Council to designate candidates to the judge, Court Chair and Vice-chair positions; to suspend and transfer judges to other courts;
- d. New provisions have been introduced in the Law on the College of Evaluating Judges regarding the obligations of the college members; requirements for registering and promoting candidates to the judge position;
- e. New provisions have been introduced to the Law on the Disciplinary Committee regarding the procedure and grounds for initiating disciplinary measures.

ADEPT Commentary: Considering the above amendments it is obvious that the Parliament is restricting judges' freedom and allows for the interference in the judiciary. These amendments are part of the initiative to improve the organization of the judiciary system and continue the reform in the field, but they also aim to easier eliminate those who disregard their obligations or whose behavior is not in line with the requirements of the new governing party.

On the other hand, the competence of the President of the country in appointing the judges is broadened.

III. Social Security

The Parliament continued to focus on social security issues.

1. The Law on Modification and Completion of the Law no.933-XIV of April 14 2000 on social security measures for certain strata of the society enlarges the categories of the population who would benefit of compensations (those who worked during the II World War and those who were in Leningrad (Sankt-Petersburg) blockade".
2. Law on the Partial Ratification of the European Social Charter - the Parliament decided to partially ratify one of the most important international laws in the field of social security. It also obliged the Government to elaborate and approve measures for the Charter enforcement within one year.
3. Law on the Ratification of the International Labor Organization Convention no. 181 on the private employment agencies.
4. Law on the Ratification of the International Labor Organization Convention no. 142 on the professional development of human resources.
5. The Parliament examined in the first reading the Law on Remuneration, law completing the Law on minimal free medical assistance guaranteed by the state; law on the modification and completion of the Law on Public Insurance System; Law on Healthcare Certification.

ADEPT Commentary: So far, the communists failed to keep their promise to the voters, namely to promote all the laws related to social security (reducing retirement age, increasing pensions, indexation of savings, increasing minimal living standard etc.). Nevertheless, these issues are included in the Government agenda and in this month Parliament's work plan, so it is very likely they would be passed by the end of 2001.

IV. Economy and entrepreneurship

In comparison to the previous session, economy and entrepreneurship wasn't a priority for the Parliament. An explanation to this might be the fact that Government hasn't submitted yet new draft laws, as well as the fact that draft budget for 2002 seems to be the Parliament priority.

Nevertheless, during the last plenary session the Parliament started examining draft laws related to the economy, such as: on completing the Law on Entrepreneurial Patent (forbidding the sale of goods indoors based on the patent); completing the Law on Free Economic Zones, modifying the Law on Entrepreneurship; Law on State Enterprises; on the modification and completion of the Law on Financial Institutions; on the modification of the Fiscal Code, etc.

The agenda of both Government and Parliament includes such draft laws as: on bankruptcy, on information systems, on housing, on privatization, accreditation, on promoting small business on promoting investments, on foreign investments, etc. This makes us believe that in the future economy will be in the attention of the decision makers and the legal framework will be significantly modified.

In conclusion it is worth mentioning that after six years the Parliament has finally proceeded to the examination of the Civil Code, examining so far more than 400 articles.